



ANALYSIS

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1992, No. 108

An Act to amend the Transport Act 1962

[14 December 1992]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Transport Amendment Act (No. 3) 1992, and shall be read together with and deemed part of the Transport Act 1962 (hereinafter referred to as the principal Act).

(2) Except as provided in subsections (3) to (5) of this section, this Act shall come into force on the 1st day of April 1993.

(3) Sections 14 (2), 16 (2), 35, and 38 of this Act shall come into force on the day on which it receives the Royal assent.

(4) Sections 9 to 13 of this Act shall come into force on the 1st day of March 1993.

(5) Section 8 of this Act shall come into force on the 1st day of July 1993.

2. Interpretation—(1) Section 2 (1) of the principal Act (as substituted by section 2 (1) of the Transport Amendment Act 1972) is hereby amended by repealing the definitions of the terms “Department”, “parking offence”, “railway line”, and “Secretary”, and substituting, in their appropriate alphabetical order, the following definitions:

“ ‘Approved vehicle surveillance equipment’ means any vehicle surveillance equipment of a kind approved by the Minister, or by the Minister of Police, by notice in the *Gazette*:

“ ‘Department’ means the Ministry of Transport:

“ ‘Image’, in relation to approved vehicle surveillance equipment, includes any photograph, any electronic form of information storage, and the display and transmission of any pictorial or digital information:

“ ‘Moving vehicle offence’ has the same meaning as in section 41B of this Act:

“ ‘Parking offence’ means an offence described in paragraph (a) of the definition of the term ‘stationary vehicle offence’ in section 41A of this Act:

“ ‘Railway line’ has the same meaning as in section 2 (1) of the Transport Services Licensing Act 1989:

“ ‘Rail service vehicle’ has the same meaning as in section 2 (1) of the Transport Services Licensing Act 1989:

“ ‘Secretary’ or ‘Secretary for Transport’ means the chief executive of the Department:

“ ‘Stationary vehicle offence’ has the same meaning as in section 41A of this Act:”.

(2) Every reference to the Secretary for Transport in any enactment other than the principal Act shall, unless the context otherwise requires, hereafter be read as a reference to the

person for the time being holding office as the chief executive of the Ministry of Transport.

3. Specific penalties—(1) Section 30AA of the principal Act (as substituted by section 3 (1) of the Transport Amendment Act (No. 2) 1988) is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) Notwithstanding anything in any of subsections (1), (2), and (4) of this section or in section 7 of the Summary Proceedings Act 1957, where a person is tried summarily and convicted of an offence against—

“(a) Section 35 of this Act (which relates to driving while disqualified or contrary to the terms of a limited licence); or

“(b) Section 55 (1) of this Act (which relates to causing bodily injury or death through reckless or dangerous driving); or

“(c) Section 56 (1A) of this Act (which relates to causing bodily injury or death through careless use of a motor vehicle); or

“(d) Section 65 (4) of this Act (which relates to the duties of a driver in the case of an accident where any other person is killed or injured),—

the Court shall, in addition to any other penalties it may impose but subject to section 30AC of this Act, order the person to be disqualified from holding or obtaining a driver's licence for a period of 1 year or more, unless the Court for special reasons relating to the offence thinks fit to order otherwise.”

(2) Section 30AA of the principal Act (as so substituted) is hereby further amended by repealing subsection (4), and substituting the following subsection:

“(4) Every person who commits an offence against section 35 of this Act (which relates to driving while disqualified or contrary to the terms of a limited licence) is liable—

“(a) For a first offence, on conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$3,000, or to both:

“(b) For a second or subsequent offence, on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine not exceeding \$6,000, or to both.”

(3) Section 30AA of the principal Act (as so substituted) is hereby further amended by adding the following subsection:

“(8) Every person who commits an offence against any regulations made under section 77 (1) (fe) of this Act is liable on

conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$3,000, or to both.”

(4) Nothing in this section applies in respect of any offence committed before the commencement of this section.

4. Penalties for alcohol and drug related traffic offences—(1) Section 30AB of the principal Act (as substituted by section 3 (1) of the Transport Amendment Act (No. 2) 1988) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Notwithstanding anything in subsection (1) of this section or in section 7 of the Summary Proceedings Act 1957, where a person is tried summarily and convicted of an offence against section 55 (2) of this Act, the Court shall, in addition to any other penalties it may impose but subject to section 30AC of this Act, order the person to be disqualified from holding or obtaining a driver’s licence for a period of 1 year or more, unless the Court for special reasons relating to the offence thinks fit to order otherwise.”

(2) Section 30AB (2) of the principal Act (as so substituted) is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) Any of paragraphs (a) to (e) of section 58 (1) of this Act (which relate to driving while the proportion of alcohol in the driver’s breath or blood exceeds a specified amount or while under the influence of drink or a drug); or”.

(3) Section 30AB of the principal Act (as so substituted) is hereby further amended by inserting, after subsection (2), the following subsection:

“(2A) Every person who commits an offence against paragraph (f) or paragraph (g) of section 58 (1) of this Act (which relates to a person under 20 years of age driving while the proportion of alcohol in the person’s breath or blood exceeds a specified amount) is liable to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$2,250, or to both; and the Court shall, subject to section 30AC of this Act, order the driver to be disqualified from holding or obtaining a driver’s licence for a period of 3 months or more, unless the Court for special reasons relating to the offence thinks fit to order otherwise.”

(4) Section 30AB (4) of the principal Act (as so substituted) is hereby amended by omitting the expression “58 (1) (c), (d), or (e)”, and substituting the expression “58 (1) (c), (e), or (g)”.

(5) Nothing in this section applies in respect of any offence committed before the commencement of this section.

5. Driving while disqualified or contrary to the terms of a limited licence—Section 35 of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970 and as amended by section 3 (2) of the Transport Amendment Act (No. 2) 1988) is hereby amended by adding, as subsection (1A), the following subsection:

“(1A) Nothing in subsection (1) of this section applies to any person who—

“(a) Has been ordered by a Court to attend a traffic improvement school; and

“(b) In the course of his or her attendance at that school—

“(i) In the case of a motorcyclist, drives under the supervision of a person who holds a current certificate of approval as a driving instructor issued by the Secretary under regulations made under section 48 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986:

“(ii) In any other case, drives while accompanied by a person who holds a certificate referred to in subparagraph (i) of this paragraph.”

6. Issue of limited licence to disqualified person—Section 38 (2) of the principal Act (as substituted by section 5 (1) of the Transport Amendment Act (No. 3) 1978 and as amended by section 24 (3) of the Transport Amendment Act 1987) is hereby amended by adding the following paragraph:

“(c) No order may be made under this section authorising a person to drive a motor vehicle of any class, if the person does not hold a driver’s licence in respect of that class of vehicle.”

7. Approval of traffic improvement schools and defensive driving courses—The principal Act is hereby amended by repealing section 39A (as substituted by section 11 of the Transport Amendment Act (No. 3) 1983), and substituting the following section:

“39A. The Secretary may, by notice in the *Gazette*, approve any traffic improvement school conducted by the Department, any local authority, any defensive driving organisation, or any other person or organisation as a school or organisation that conducts courses available to persons in respect of whom orders disqualifying them from holding or obtaining a driver’s

licence have been made by any Court; and may in like manner revoke any such approval.”

8. New sections substituted—The principal Act is hereby amended by repealing section 42 (as substituted by section 7 of the Transport Amendment Act 1980), and substituting the following heading and sections:

“Owner Liability

“41A. Owner liability for stationary vehicle offences—
(1) In this section,—

“‘Stationary vehicle offence’ means—

“(a) Parking in any portion of a road in breach of any Act or regulation, or of any bylaw made under the authority of section 72 of this Act:

“(b) An offence against any of the following enactments:

“(i) Regulation 37 (5) of the Traffic Regulations 1976 (which relates to parking a goods service vehicle during the hours of darkness without a visible rear red light):

“(ii) Regulation 71 (1) of the Traffic Regulations 1976 (which relates to using a worn or damaged tyre):

“(iii) Regulation 71 (2) of the Traffic Regulations 1976 (which relates to using a smooth tyre):

“(iv) Regulation 85 (1) of the Traffic Regulations 1976 (which relates to operating a vehicle without a current warrant of fitness or certificate of fitness):

“(v) Section 5 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 (which relates to using or permitting to be used on a road a vehicle that is not licensed and registered):

“(vi) Section 17 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 (which relates to using or permitting to be used on a road a motor vehicle that has unauthorised, deceptive, or obscured registration plates or an unauthorised licence):

“ ‘Proceedings’ means proceedings under the Summary Proceedings Act 1957, and includes the issue of an infringement notice under section 42A of this Act.

“(2) Proceedings for a stationary vehicle offence may be taken against any one or more of the following persons:

“(a) The person who allegedly committed the offence:

“(b) Any person who, at the time of the alleged offence, was registered as the owner, or one of the owners, of the vehicle involved in the offence in a register kept under section 18 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986:

“(c) Any person who, at the time of the alleged offence, was lawfully entitled to possession of the vehicle involved in the offence (whether jointly with any other person or not)—

whether or not (in the case of a person referred to in paragraph (b) or paragraph (c) of this subsection) the person is an individual or was the driver, person in charge, or user of the vehicle at the time the alleged offence was committed.

“(3) Subject to subsection (5) of this section, in any proceedings taken against a person pursuant to paragraph (b) or paragraph (c) of subsection (2) of this section it shall be conclusively presumed that—

“(a) The person was the driver, person in charge, and user of the vehicle at the time of the alleged offence (whether or not the person is an individual); and accordingly

“(b) The acts or omissions of the driver, person in charge, or user of the vehicle at that time were the acts or omissions of the first-mentioned person.

“(4) It shall be a defence to proceedings taken against a person for a stationary vehicle offence if the person proves that another person has, by virtue of an order under the Summary Proceedings Act 1957, become liable to pay a fine or costs, or both, in respect of the offence.

“(5) It shall be a defence to proceedings taken against a person pursuant to paragraph (b) or paragraph (c) of subsection (2) of this section if—

“(a) The person proves that, at the time the alleged offence was committed—

“(i) He or she was not lawfully entitled to possession of the vehicle (either jointly with any other person or severally); or

“(ii) Another person was unlawfully in charge of the vehicle; and

“(b) Forthwith after becoming aware of the alleged offence he or she advised the enforcement authority in writing that, at the time the offence was committed, he or she was not lawfully entitled to possession of the vehicle or another person unlawfully had charge of the vehicle, as the case may be; and

“(c) He or she has done everything reasonably possible on his or her part to comply with all requests of the enforcement authority to supply to the authority information regarding the person lawfully entitled to possession, or who was in charge, of the vehicle at the time of the alleged offence.

“(6) In the case of any stationary vehicle offence, any defence available under subsection (4) or subsection (5) of this section is in addition to and not in substitution for any defences available under the enactment creating the offence.

“(7) This section shall have effect notwithstanding anything to the contrary in any Act or rule of law.

“41B. Owner liability for moving vehicle offences—

(1) In this section,—

“ ‘Moving vehicle offence’ means either of the following, namely,—

“(a) A speeding offence; or

“(b) An offence in respect of the failure to comply with the directions given by a traffic signal— that is detected by any approved vehicle surveillance equipment:

“ ‘Owner’, in relation to a vehicle, means the person registered as the owner under the Transport (Vehicle and Driver Registration and Licensing) Act 1986; and includes a person in charge of the vehicle:

“ ‘Proceedings’ means proceedings under the Summary Proceedings Act 1957, and includes the issue of an infringement notice under section 42A of this Act.

“(2) The owner of a motor vehicle commits an offence if the vehicle is used in the commission of a moving vehicle offence.

“(3) It shall be a defence to proceedings taken against the owner of a vehicle for a moving vehicle offence if—

“(a) The owner proves that, at the time the alleged offence was committed,—

“(i) The owner was not lawfully entitled to possession of the vehicle (either jointly or with any other person or severally); or

“(ii) Another person was driving the vehicle; and

“(b) Forthwith after becoming aware of the alleged offence, the owner advised the enforcement authority in writing that, at the time the offence was committed, the owner was not lawfully entitled to possession of the vehicle or another person was driving the vehicle, as the case may be; and

“(c) The owner has furnished to the enforcement authority a statutory declaration—

“(i) Identifying the driver, by giving the name and address of the driver or such other particulars within the owner’s knowledge as may lead to the identification of the driver; or

“(ii) Establishing that the owner could not identify the driver, after taking all reasonable steps to do so.

“(4) A statutory declaration given under subsection (3) of this section shall, in the absence of evidence to the contrary, be sufficient evidence of the matters stated in the declaration.

“(5) Every person commits an offence and is liable on conviction to a fine not exceeding \$2,000 who makes any statement in a statutory declaration given under subsection (3) of this section, knowing the same to be false or misleading in any material particular.

“(6) Where an infringement notice is issued against the owner of a vehicle used in the commission of a moving vehicle offence, the owner shall be liable to pay the infringement fee prescribed for a driver who commits that offence.

“(7) This section shall have effect notwithstanding anything to the contrary in any Act or rule of law.

“42. Evidential provisions relating to approved vehicle surveillance equipment—(1) In any proceedings against any person for a moving vehicle offence, an image produced by means of an exposure taken by any approved vehicle surveillance equipment, being an image—

“(a) Showing a motor vehicle on a road; and

“(b) Recording the speed at which the vehicle was moving, the date on which the image was taken, the time when the image was taken, and the location at which the image was taken, or recording any of those particulars,—

shall, in the absence of evidence to the contrary, be sufficient evidence that the vehicle was moving at that speed or that the image was taken on that date or at that time or at that location, as the case may be.

“(2) Every person commits an offence and is liable on conviction to a fine not exceeding \$2,000 who—

“(a) Tamper with any approved vehicle surveillance equipment; or

“(b) Interferes with—

“(i) Any approved vehicle surveillance equipment; or

“(ii) The operation of any approved vehicle surveillance equipment.”

9. Infringement offences—(1) Section 42A (7) of the principal Act (as substituted by section 17 of the Summary Proceedings Amendment Act 1987) is hereby amended by repealing paragraph (h), and substituting the following paragraph:

“(h) In the case of an alleged infringement offence that is a stationary vehicle offence, a summary of the provisions of section 41A of this Act; and”.

(2) Section 42A of the principal Act (as so substituted) is hereby amended by repealing subsection (10), and substituting the following subsections:

“(10) Where an infringement fee for an infringement offence for which an infringement notice has been issued is paid to the enforcement authority at the address for payment specified in the notice before or within 28 days after service of a reminder notice in respect of the offence pursuant to section 21 of the Summary Proceedings Act 1957, sections 44 to 51 of this Act shall apply as if—

“(a) The date on which the infringement notice was issued is the date on which the offence was committed; and

“(b) A summary conviction in respect of the offence had been entered against the offender on the date of the payment of the infringement fee.

“(11) In any proceedings against any person for an offence in connection with the driving of a motor vehicle, a certificate purporting to be signed by an officer of the Ministry of Transport or a member of the Police to the effect that the officer or member has checked the information stored in relation to driver history on the Wanganui computer system, and—

“(a) Has found a record to the effect that an infringement fee has been paid by that person in respect of an infringement offence; or

“(b) Has found a record to the effect that a Court has made an order in respect of an infringement offence or a minor offence—
shall, in the absence of evidence to the contrary and if a printout of the record is annexed to the certificate, be sufficient evidence of the matters contained in the certificate.”

10. Recording of demerit points—(1) Section 44 of the principal Act is hereby amended by repealing subsection (1) (as substituted by section 2 of the Transport Amendment Act 1970 and as amended by section 8 (6) of the Transport Amendment Act 1980 and section 23 (2) of the Transport Amendment Act 1987), and substituting the following subsection:

“(1) Where any person is convicted (within the meaning of the Summary Proceedings Act 1957) of an offence against this Act or any other Act or any regulation or bylaw (being an offence in connection with the driving of a motor vehicle, but not being an offence to which section 41B of this Act applies), the Secretary shall record in respect of that person such number of points in relation to the offence (in this section and sections 45 to 51 of this Act referred to as demerit points) as may be prescribed by regulations made under section 51 of this Act.”

(2) Section 44 of the principal Act (as so substituted) is hereby further amended by adding the following subsection:

“(4) Subject to section 42A (10) of this Act, demerit points recorded under subsection (1) of this section shall be deemed to have effect on and from the date of the commission of the offence in respect of which the points are recorded.”

(3) The following enactments are hereby consequentially repealed:

(a) Section 8 (6) of the Transport Amendment Act 1980:

(b) Section 23 (2) of the Transport Amendment Act 1987.

11. New sections substituted—(1) The principal Act is hereby amended by repealing section 46 (as substituted by section 2 of the Transport Amendment Act 1970) and section 47 (as substituted by section 13 (1) of the Transport Amendment Act (No. 3) 1983), and substituting the following sections:

46. Cancellation of points—(1) When 2 years have elapsed since the commission of an offence in respect of which demerit points were recorded, the entry of the points made in respect of that offence shall cease to have effect in relation to the person who committed that offence; but if demerit points

were recorded in respect of 2 or more offences committed by that person, the entry shall cease to have effect when 2 years has elapsed since the commission of the most recent of those offences.

“(2) Where a suspension under section 48 of this Act is imposed in respect of a person’s driver’s licence or a disqualification is imposed under that section in respect of a person, the Secretary shall cancel all demerit points for the time being recorded in respect of that person.

“(3) Where—

“(a) A Court disqualifies a person from holding or obtaining a driver’s licence for a period of 6 months or more; or

“(b) The combined effect of any suspensions imposed under section 48 of this Act and any disqualifications imposed under that section or by a Court (or both) is that a person is prohibited from driving a motor vehicle for such a period,—

the Secretary shall cancel all demerit points for the time being recorded in respect of that person.

“47. **Notice of points**—(1) The Secretary shall, when reasonably practicable, cause a notice in writing to be given to any person in respect of whom 50 or more demerit points have been recorded informing that person of—

“(a) The number of demerit points so recorded; and

“(b) The consequences of further demerit points being recorded against him or her.

“(2) No suspension imposed under section 48 of this Act in respect of a person’s driver’s licence, or disqualification imposed under that section in respect of a person, shall be invalidated on the ground that—

“(a) A notice under subsection (1) of this section was not given to that person or was given to that person after the imposition of that suspension or disqualification; or

“(b) A notice given under that subsection was not received by that person or was received by that person after the imposition of that suspension or disqualification.

“(3) Where a notice given under subsection (1) of this section is sent by ordinary post addressed to the defendant at the defendant’s last known place of residence or business, then, unless the contrary is shown, service shall be deemed to have been effected on the person to whom the notice is addressed at the time when the notice would have been delivered in the ordinary course of post, and in proving service it shall be

sufficient to prove that the notice was properly addressed and posted.”

(2) Section 13 of the Transport Amendment Act (No. 3) 1983 is hereby consequentially repealed.

12. Disqualification under points system—(1) Section 48 of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Where, in any 2-year period a total of 100 or more demerit points is recorded in respect of any person, the Secretary shall, by notice in writing given to that person, either—

“(a) Suspend that person’s driver’s licence; or

“(b) Where the person does not hold a driver’s licence on the date of the giving of the notice, disqualify him or her from holding or obtaining a driver’s licence,—

for a period of 3 months commencing on the date of the giving of the notice to that person.”

(2) Section 48 of the principal Act (as so substituted) is hereby further amended by repealing subsection (3), and substituting the following subsection:

“(3) Where the driver’s licence of any person has been suspended by the Secretary under the provisions of this section, that person shall, forthwith upon receiving notice of the suspension, forward his or her licence to the Secretary; and the Secretary shall endorse particulars of the suspension on the licence and retain it.”

(3) Section 48 (4) of the principal Act (as so substituted) is hereby amended by omitting the words “The local authority, or, in the case of a licence issued by the Secretary, the Secretary,”, and substituting the words “The Secretary”.

13. Regulations as to demerit points—Section 51 (3) (b) of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting the expression “40”, and substituting the expression “50”.

14. Interpretation—(1) Section 57A (1) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988) is hereby amended by repealing the definition of the term “apparently unlicensed driver”.

(2) Section 57A (1) of the principal Act (as so substituted) is hereby amended by inserting, after the definition of the term “Ministry analyst”, the following definition:

“‘Passive breath-testing device’ means a passive breath-testing device of a kind approved by the Minister by notice in the *Gazette*:”.

(3) Section 57A (1) of the principal Act (as so substituted) is hereby further amended by repealing the definition of the term “positive evidential breath test”, and substituting the following definition:

“‘Positive evidential breath test’ means an evidential breath test that indicates that the proportion of alcohol in the breath of the person who underwent the test—

“(a) In any case, exceeds 400 micrograms of alcohol per litre of breath; or

“(b) In the case of a person under 20 years of age, exceeds 150 micrograms of alcohol per litre of breath;—

and ‘positive’, in relation to an evidential breath test, has a corresponding meaning:”.

(4) Section 57A (2) of the principal Act (as so substituted) is hereby repealed.

15. Driving with excessive breath-alcohol or blood-alcohol concentration or while under influence of drink or drugs—(1) Section 58 (1) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988) is hereby amended by repealing paragraphs (b) and (d).

(2) Section 58 (1) of the principal Act (as so substituted) is hereby further amended by adding the expression “; or” and the following paragraphs:

“(f) Being a person who is under 20 years of age, drives or attempts to drive a motor vehicle on any road while the proportion of alcohol in the person’s breath, as ascertained by an evidential breath test subsequently undergone by the person, exceeds 150 micrograms of alcohol per litre of breath; or

“(g) Being a person who is under 20 years of age, drives or attempts to drive a motor vehicle on any road while the proportion of alcohol in the person’s blood, as ascertained from an analysis of a blood specimen subsequently taken from the person, exceeds 30 milligrams of alcohol per 100 millilitres of blood.”

(3) Section 58 (4) (a) of the principal Act (as so substituted) is hereby amended by repealing subparagraph (ii), and substituting the following subparagraph:

“(ii) In the case of a positive test that indicates that the proportion of alcohol in the person’s breath exceeds 150 but does not exceed 400 micrograms of alcohol per litre of breath, the test could of itself, unless the person is of or over 20 years of age, be sufficient evidence to lead to that person’s conviction for an offence against this Act.”.

(4) Section 58 (6) of the principal Act (as so substituted) is hereby amended by omitting the expression “paragraph (d)”, and substituting the expression “paragraph (g)”.

16. Breath screening tests—(1) Section 58A of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) An enforcement officer may require any of the following persons to undergo forthwith a breath screening test:

“(a) The driver of any motor vehicle on any road:

“(b) Any person attempting to drive a motor vehicle on any road:

“(c) Any other person, if the officer has good cause to suspect that the person has recently committed an offence against this Part of this Act, or against any regulations authorised by section 77 of this Act and made under section 199 of this Act, that involves the use of a motor vehicle.”

(2) Section 58A of the principal Act (as so substituted) is hereby further amended by adding the following subsections:

“(5) Where an enforcement officer is entitled to require a person to undergo a breath screening test, the officer may also require that person to undergo a test using a passive breath-testing device, being a test where the officer holds a passive breath-testing device near the person’s mouth for the purpose of ascertaining whether or not there is any alcohol in the person’s breath.

“(6) The use of a passive breath-testing device shall not of itself affect the validity of any breath screening test.”

17. Evidential breath tests—(1) Section 58B (1) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988) is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(aa) It appears to the officer that the person is under 20 years of age and that a breath screening test undergone by the person pursuant to a requirement

under section 58A of this Act indicates that there is some alcohol in the person's breath; or”.

(2) Section 58B of the principal Act (as so substituted) is hereby further amended by inserting, after subsection (1), the following subsection:

“(1A) For the purposes of subsection (1) (aa) of this section,—

“(a) An enforcement officer is entitled to regard a person as being under 20 years of age if—

“(i) The person produces a driver's licence showing that the person is of such an age; or

“(ii) The person produces a driver's licence showing that the person is of or over 20 years of age, but the officer has good cause to suspect that the licence has been issued in respect of some other person or is invalid or that the person is under 20 years of age; or

“(iii) The person fails to produce a driver's licence and is unable to satisfy the officer by some other means that the person is of or over 20 years of age:

“(b) An enforcement officer is not obliged to take any further steps, other than requiring the production of a driver's licence, to ascertain the age of a person.”

18. Blood tests—Section 58c (1) (d) (i) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988) is hereby amended by omitting the words “a drug or of drink and a drug”, and substituting the words “drink or a drug, or both”.

19. Procedure for dealing with blood specimens—Section 58F of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988) is hereby amended by omitting from subsection (3) and also from subsection (4) (a) the word “personally”.

20. Certificates and presumptions in blood-alcohol proceedings—(1) Section 58c (1) (d) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988) is hereby amended by repealing subparagraph (i), and substituting the following subparagraph:

“(i) A blood specimen in a sealed bottle was delivered on a specified date to a Ministry analyst (or a person employed by an approved laboratory and approved for the purpose by a Ministry analyst)

by registered post or by other delivery for analysis; and”.

(2) Section 58G of the principal Act (as so substituted) is hereby amended by repealing subsection (5), and substituting the following subsection:

“(5) In proceedings for an offence to which paragraph (f) or paragraph (g) of section 58 (1) of this Act apply, where a certificate referred to in section 39 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 is produced (being a certificate purporting to be signed by an officer of the Ministry of Transport and relating to the findings of that officer on checking the register of drivers’ licences kept under that Act), it shall be presumed until the contrary is proved that the date stated in the certificate as being the date of birth of the person to whom the certificate relates is accurate.”

21. Circumstances in which certificate not admissible in proceedings—(1) Section 58H (4) (c) (i) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988) is hereby amended by omitting the expression “section 58 (1) (d)”, and substituting the expression “section 58 (1) (g)”.

(2) Section 58H of the principal Act (as so substituted) is hereby amended by adding the following subsection:

“(5) Where any blood specimen is destroyed in accordance with section 58F (7) of this Act, that act shall not affect the admissibility in any proceedings of any certificate given in respect of the specimen by a Ministry analyst for the purposes of this Act.”

22. Reasonable compliance—Section 58I of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988) is hereby amended by omitting the expression “paragraphs (a) to (d)”, and substituting the expression “paragraphs (a), (b), (c), (d), (f), and (g)”.

23. Taking of blood specimens for statistical or research purposes—(1) Section 58J (1) of the principal Act (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988) is hereby amended by adding the words “; and any such registered medical practitioner or authorised person may, with the consent of any person from whom such a blood specimen may be taken under this subsection, take for such purposes a specimen of breath, saliva, urine, or eye vapour from that person”.

(2) Section 58j of the principal Act (as so substituted) is hereby further amended by inserting in subsection (2), and also in subsection (3), after the word “blood” wherever it occurs, the words “, breath, saliva, urine, or eye vapour”.

24. Constable or traffic officer may prohibit or prevent driving—Section 63 (3) of the principal Act (as substituted by section 9 (2) of the Transport Amendment Act (No. 2) 1988) is hereby amended by omitting from paragraph (a) (i), and also from paragraph (b) (i), the words “an apparently unlicensed driver or the holder of a learner licence or a restricted licence for the relevant vehicle”, and substituting in each case the words “a person apparently under 20 years of age”.

25. User of vehicle to stop when requested and give name and address, etc.—(1) Section 66 (1) of the principal Act (as substituted by section 10 of the Transport Amendment Act (No. 2) 1988 and as amended by section 12 of the Transport Amendment Act (No. 2) 1992) is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) At the request or signal of either—

“(i) A constable or a traffic officer in uniform; or

“(ii) A constable or traffic officer who is wearing a distinctive cap, hat, or helmet, with a badge of authority affixed thereto; or”.

(2) Section 66 (2) (b) (i) of the principal Act (as so substituted) is hereby amended by inserting, after the word “address”, the words “and date of birth, or any of those particulars”.

(3) Section 12 (1) of the Transport Amendment Act (No. 2) 1992 is hereby consequentially repealed.

26. Owner or hirer to give information as to identity of driver or passenger—Section 67 of the principal Act (as substituted by section 11 (1) of the Transport Amendment Act 1971 and as amended by section 11 of the Transport Amendment Act (No. 2) 1988) is hereby amended by adding the following subsection:

“(4) Every person who commits an offence against subsection (3) of this section is liable on conviction to a fine not exceeding \$2,000.”

27. Powers of constables and traffic officers—Section 68B (1) (a) of the principal Act (as substituted by section 20 (1) of the Transport Amendment Act 1987) is hereby amended by

inserting, after the word “address”, the words “and date of birth, or any of those particulars,”.

28. Driving hours—(1) Section 70B (1) of the principal Act (as substituted by section 15 (1) of the Transport Amendment Act 1989) is hereby amended by omitting from paragraph (b) (iii) the expressions “10” and “10-hour”, and substituting, respectively, the expressions “9” and “9-hour”.

(2) Section 70B (1) of the principal Act (as so substituted) is hereby further amended by repealing paragraph (c), and substituting the following paragraph:

“(c) Does not have at least 24 consecutive hours off duty after driving for 66 hours or being on duty for 70 hours, whichever first occurs (which 66-hour or 70-hour periods shall be reckoned as from the close of the most recent 24 consecutive hours off duty and shall include all periods of driving or being on duty, as the case may be).”

(3) Section 70B of the principal Act (as so substituted) is hereby further amended by adding the following subsection:

“(9) Nothing in this section applies in respect of any rail service vehicle, or in respect of any goods service vehicle fitted with 2 axles and having a manufacturer’s gross laden weight of less than 14 tonnes that—

“(a) Is used within a radius of 50 kilometres of—

“(i) The business location of the operator of the vehicle; or

“(ii) The normal base of operation for the vehicle; but

“(b) Is not used for hire or reward.”

29. Driver logbooks—(1) Section 70c (8) (as substituted by section 15 (1) of the Transport Amendment Act 1989) is hereby amended by inserting, after the expression “subsection (5)”, the expression “or subsection (6)”.

(2) Section 70c of the principal Act (as so substituted) is hereby amended by inserting, after subsection (9), the following subsection:

“(9A) Notwithstanding anything in this section,—

“(a) The Secretary may approve the use of an alternative means of recording particulars required by this section to be recorded in a logbook; and may at any time in writing revoke any such approval; and

“(b) The provisions of subsections (1) to (9) of this section shall apply with any necessary modifications to a

record kept by such an approved alternative means (in this section and in section 70D of this Act referred to as an 'approved alternative record') as if the record were a logbook; and

“(c) The use of an approved alternative record in accordance with this subsection shall be sufficient compliance with the requirements of this section.”

(3) Section 70c (10) of the principal Act (as so substituted) is hereby amended by inserting, before the words “declared by the Secretary”, the words “, or of any person or class of person,”.

(4) Section 70c of the principal Act (as so substituted) is hereby amended by inserting, after subsection (10), the following subsection:

“(10A) Any approval under subsection (9A) of this section and any exemption under subsection (10) of this section may at any time be made subject to such conditions as the Secretary may specify in writing and any such conditions may in like manner be amended or revoked.”

30. Offences and proceedings concerning logbooks and driving hours—(1) Section 70D of the principal Act (as substituted by section 15 (1) of the Transport Amendment Act 1989) is hereby amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) Every person commits an offence who—

“(a) Maintains an approved logbook or approved alternative record under section 70c of this Act while maintaining any other approved logbook or approved alternative record under that section; or

“(b) Makes or causes to be made any false statement in the logbook or approved alternative record, or allows any omission to occur in the logbook or other record.

“(2) Every person commits an offence who, being the driver of a vehicle to which section 70c of this Act applies,—

“(a) On demand by a constable, traffic officer, or any officer of the Department authorised in writing in that behalf by the Secretary, fails forthwith to produce all logbooks and other records of driving hours that are so demanded; or

“(b) On demand by a constable, traffic officer, or any officer of the Department authorised in writing in that behalf by the Secretary, produces any logbook or other record of driving hours that is false in a

material particular, whether or not the driver knows of the falsehood; or

“(c) On demand by a constable, traffic officer, or any officer of the Department authorised in writing in that behalf by the Secretary, produces any logbook or other record of driving hours—

“(i) That omits a material particular, whether or not the driver knows of the omission; or

“(ii) In which any material particular is entered illegibly or in such a manner that the matters specified in section 70c(1) of this Act cannot be readily ascertained.”

(2) Section 70D(3) of the principal Act (as so substituted) is hereby amended by inserting, after the word “logbook” wherever it occurs, the words “or approved alternative record”.

(3) Section 70D of the principal Act (as so substituted) is hereby further amended—

(a) By inserting in subsection (5), and also in subsection (8), after the word “logbook” wherever it occurs, the words “or approved alternative record”:

(b) By inserting in subsection (5), and also in subsection (8), after the word “logbooks”, the words “or approved alternative records”.

31. Duties of operators of vehicles transporting hazardous substances—(1) Section 70F of the principal Act (as inserted by section 16 of the Transport Amendment Act 1989) is hereby amended by inserting, after subsection (1), the following subsections:

“(1A) Notwithstanding subsection (1) of this section, the Secretary may, by notice in the *Gazette*, exempt the operator of any specified transport service vehicle, or operators of any specified class of transport service vehicle, from all or any of the requirements of that subsection to the extent that the Secretary is satisfied that compliance therewith is unreasonable or impracticable in the case of that vehicle or vehicles of that class; and any such exemption may be granted on such conditions as the Secretary thinks fit.

“(1B) Notwithstanding subsection (1) of this section, an approved safety system under the Transport Services Licensing Act 1989 may prescribe the place or places where documents in respect of hazardous substances are to be carried in a rail service vehicle.”

(2) Section 70F of the principal Act (as so inserted) is hereby further amended by omitting from subsection (1), and also

from subsection (2), the words “(other than a rental service vehicle)”.

32. Consignors to advise of presence of hazardous substances—Section 70G of the principal Act (as inserted by section 16 (1) of the Transport Amendment Act 1989) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Any person carrying or arranging the carriage of goods may refuse to accept any hazardous substances or dangerous goods or any package or parcel which that person or any employee of that person suspects to contain any hazardous substances or dangerous goods, and may require it to be opened to ascertain the fact.”

33. New sections inserted—The principal Act is hereby amended by inserting, after section 70H (as inserted by section 16 (1) of the Transport Amendment Act 1989), the following sections:

“70I. Power to stop vehicles for breach of hazardous substances provision—(1) Where any constable or traffic officer has good cause to suspect that, in respect of any transport service vehicle or the driver of any transport service vehicle, there has been a breach of any of sections 70E to 70H of this Act, the constable or traffic officer shall, by direction given to the driver or person in charge of the vehicle, direct, if necessary, that the vehicle be stopped, and shall direct that—

“(a) The vehicle be kept stopped; or

“(b) The vehicle be moved to a place of safety approved by the constable or traffic officer and kept stopped at that place—

until the constable or traffic officer is satisfied that the breach has been rectified.

“(2) Every person commits an offence and is liable on conviction to a fine not exceeding \$5,000 who—

“(a) Fails to comply with or does any act in breach of any direction given by a constable or traffic officer under subsection (1) of this section:

“(b) Whether or not he or she is a person to whom any such direction is given, knowingly drives any heavy motor vehicle on any road in breach of any direction given under subsection (1) of this section.

“70j. Heavy motor vehicles of or over 3,500 kg to comply with hazardous substances requirements—For the purposes of sections 70F to 70i of this Act, the term ‘transport service vehicle’ shall be read as if it includes vehicles that have a gross laden weight of 3,500 kilograms or more and would be goods service vehicles if their gross laden weight were 6,000 kilograms or more.”

34. Drivers to have licence with hazardous substances endorsement—(1) Section 70H (1) (a) of the principal Act (as inserted by section 16 (1) of the Transport Amendment Act 1989) is hereby amended by omitting the expression “section 48 (2) (d)”, and substituting the expression “section 48 (2) (e)”.

(2) Section 70H of the principal Act (as so inserted) is hereby further amended by adding the following subsection:

“(4) Nothing in this section applies to any person driving a rail service vehicle.”

35. Regulations—(1) Section 77 (1) of the principal Act is hereby amended by inserting, after paragraph (fb) (as substituted by section 26 (2) of the Transport Amendment Act 1987), the following paragraphs:

“(fc) Empowering the Secretary to order any—

“(i) Manufacturer of a vehicle or agent of the manufacturer; or

“(ii) Importer of a vehicle; or

“(iii) Person or organisation responsible for certifying that a vehicle complies with any requirement as to devices, fittings, or equipment that is prescribed under this Act; or

“(iv) Any other person responsible for the presence of a vehicle on a road—

to recall a specified vehicle or component or vehicles or components of a specified class where the vehicle or component or class of vehicles or components does not comply with any requirement as to devices, fittings, or equipment that is prescribed for vehicles or components of the same class by regulations made under this Act; and empowering the Secretary to impose requirements for the purpose of ensuring that such vehicles and components comply with the relevant prescribed requirements:

“(fd) Requiring vehicle identification numbers to be assigned to motor vehicles being operated in New Zealand; and—

“(i) Prescribing requirements relating to vehicle identification numbers or requiring compliance with any standard specified in the regulations, or both; and providing for the manner in which such numbers are to be assigned:

“(ii) Empowering the Secretary to prescribe, by notice in the *Gazette*, a standard with which vehicle identification numbers must comply, including (but not limited to) the manner in which such numbers are to be affixed to vehicles:

“(iii) Requiring importers and manufacturers of motor vehicles to furnish to the Secretary such information relating to vehicle identification numbers as may be prescribed:

“(iv) Empowering the Secretary to authorise persons to carry out inspections of motor vehicles for the purpose of ensuring that vehicles comply with regulations made under this paragraph, and to recover costs incurred in respect of such inspections:

“(v) Exempting or empowering the Secretary to exempt, upon and subject to such conditions as may be prescribed in the regulations, vehicles of any class from any requirements imposed by or under regulations made under this paragraph:

“(fe) Prescribing offences relating to—

“(i) The removal, erasure, alteration, defacing, obscuring, destruction, or obliteration of vehicle identification numbers, engine numbers, or chassis numbers:

“(ii) The affixing to any motor vehicle of a vehicle identification number, engine number, or chassis number that has been assigned to another vehicle or not lawfully assigned:

“(iii) The selling or offering for sale of any motor vehicle without a vehicle identification number, engine number, or chassis number, or any motor vehicle on which that number has been unlawfully erased, altered, defaced, obscured, destroyed, or obliterated:

“(ff) Providing for the issuing of vehicle identification certificates by persons or organisations approved for the purpose by the Secretary; and—

“(i) Providing for the revocation of such approvals:

“(ii) Requiring specified vehicle characteristics to be recorded by any person carrying out an

inspection for the issue of a warrant of fitness or certificate of fitness; and requiring such information to be transmitted to the Secretary:”.

(2) Section 77 of the principal Act (as amended by section 12 of the Transport Amendment Act 1980) is hereby amended by adding the following subsection:

“(3) Any regulations made under paragraph (fb) or paragraph (fd) of subsection (1) of this section may incorporate by reference any standard, specification, or code of practice published by or on behalf of a standards authority in New Zealand or in any other country, and the following provisions shall apply in relation to such standards, specifications, and codes of practice:

“(a) The provisions of any standard, specification, or code of practice incorporated by reference in such regulations shall be deemed to form part of the regulations; and unless otherwise provided in the regulations, every amendment to any such standard, specification, or code of practice shall be deemed to be part of that standard, specification, or code of practice, as the case may be:

“(b) The Secretary shall make available for inspection free of charge or purchase at a reasonable price at offices of the Ministry, copies of standards, specifications, and codes of practice, and any amendments thereto:

“(c) No amendment to any such standard, code of practice, or specification shall have effect until it is made available for inspection or purchase in accordance with paragraph (b) of this subsection.”

(3) For the avoidance of doubt, it is hereby declared that—

(a) Section 77 (1) (fb) of the principal Act (as inserted by section 11 of the Transport Amendment Act 1972) always authorised the making of regulations incorporating by reference standards issued by or on behalf of any standards authority in New Zealand or in any other country:

(b) Section 77 (1) (fb) of the principal Act (as substituted by section 26 (2) of the Transport Amendment Act 1987) always authorised the making of regulations incorporating by reference standards, specifications, and codes of practice issued by or on behalf of any standards authority in New Zealand or in any other country.

36. Certificates of fitness—(1) Section 79 (3) of the principal Act (as substituted by section 20 (1) of the Transport Amendment Act 1989) is hereby amended by omitting the words “that is not to be used in a transport service”.

(2) Section 79 (5) of the principal Act (as so substituted) is hereby amended by repealing paragraphs (e) and (f), and substituting the following paragraph:

“(f) Every heavy motor vehicle.”

(3) Section 79 (7) of the principal Act (as so substituted) is hereby amended by adding the following paragraphs:

“(e) Any motor caravan that—

“(i) Has an original manufacturer’s rating of not more than 3,750 kilograms; and

“(ii) Was registered in New Zealand before the 1st day of January 1992; and

“(iii) Has been certified by an approved person to comply with the Ministry of Transport Low Volume Vehicle Code (being a code prescribed by the Secretary by notice in the *Gazette*), so long as the vehicle continues to comply with the code:

“(f) Any heavy motor vehicle or class of heavy motor vehicle declared by the Secretary, by notice in the *Gazette*, to be a vehicle or class of vehicle to which this section does not apply.”

(4) Notwithstanding anything in this section, every vehicle that did not require a certificate of fitness before the commencement of this section and which, but for this subsection, would require a certificate of fitness on the commencement of this section shall not require such a certificate until the expiration of 6 months after the commencement of this section.

37. Evidence of certain documents—The principal Act is hereby amended by inserting, after section 196A (as inserted by section 35 of the Transport Amendment Act 1987), the following section:

“196B. (1) In any proceedings for an offence against this Act or the Road User Charges Act 1977, or any regulations made under this Act or that Act, a document purporting to be issued by the Secretary, or an officer of the Department authorised by the Secretary for the purpose, and certified by that person to be a true copy of—

“(a) An application for a road user licence; or

“(b) A road user licence; or

“(c) A certificate or other document issued under this Act or any regulations made under this Act— shall, in the absence of evidence to the contrary, be sufficient evidence of the facts stated in the copy.

“(2) Any officer of the Department who certifies such a copy as a true copy shall, in the absence of proof to the contrary, be presumed to be authorised to certify it.”

38. Evidence of testing and accuracy of weighing devices and sites, and speed-measuring devices—

(1) Section 197 of the principal Act (as substituted by section 36 of the Transport Amendment Act 1987 and as amended by section 3 of the Transport Amendment Act 1992) is hereby amended—

(a) By omitting from subsection (1) (a) the words “being a date not more than 12 months earlier than the date of the alleged offence,”;

(b) By omitting from subsection (6) (a) the words “in a month not earlier than 12 months before the month of the alleged offence”.

(2) Section 197 of the principal Act (as so substituted) is hereby amended by repealing subsection (3) (as so substituted and as amended by section 32 (1) of the Transport Amendment Act (No. 2) 1992), and substituting the following subsection:

“(3) In any proceedings for an offence against this Act or any regulations or bylaws made under this Act, the production of a certificate (or a document purporting to be a copy of the certificate) purporting to be signed by a sworn or non-sworn member of the Police authorised by the Commissioner or by a person authorised by the Secretary, as to the testing and accuracy of any approved vehicle surveillance equipment or speed-measuring device referred to in the certificate shall be admissible as evidence that the equipment or device referred to has been tested and is accurate.”

39. Second Schedule amended—(1) Part V of the Second Schedule to the principal Act (as substituted by section 23 (1) of the Transport Amendment Act 1989) is hereby amended by inserting in the Table, in the appropriate numerical order, the following item:

“41B (5) Making a false or misleading statutory declaration 600”

(2) Part VI of the Second Schedule to the principal Act (as so substituted) is hereby amended by inserting in the Table, in

clause 1, in the appropriate numerical order, the following items:

“18A	Driving taxi without area knowledge certificate, etc.	500
“22 (4E)	Failure to comply with approved operating rules, etc.	500”

(3) Part VI of the Second Schedule to the principal Act (as so substituted) is hereby further amended by omitting from the second column of the item in clause 3 relating to rule 10 the word “touring”, and substituting the word “towing”.

(4) Part IX of the Second Schedule to the principal Act (as so substituted) is hereby amended by inserting in the Table, after the item relating to section 5 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986, the following item:

“Section 17, Transport (Vehicle and Driver Registration and Licensing) Act 1986	Unauthorised, deceptive, or obscured registration plates or unauthorised licence, etc.	200”
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40. Schedule 2A amended—Schedule 2A to the principal Act (as inserted by section 21 (2) of the Transport Amendment Act 1987) is hereby amended by adding the following item:

“4. Offences against section 17 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 (using or permitting to be used on a road a motor vehicle that has unauthorised, deceptive, or obscured registration plates or an unauthorised licence).”

This Act is administered in the Ministry of Transport.
